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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2011-70**

12 **MICHELE ANNE KNIGHTON**
13 **2385 Grafton Street**
14 **El Cajon CA 92020**

A C C U S A T I O N

15 **Registered Nurse License No. 410470**
Public Health Nurse License No. 41988

16 Respondent.

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18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about March 31, 1987, the Board of Registered Nursing issued Registered
25 Nurse License Number 410470 to Michele A. Minot, now known as Michele A. Knighton,
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
27 the charges brought herein and will expire on March 31, 2011, unless renewed. Respondent also
28

1 holds advanced certification Public Health Nurse License No. 41988 that was issued on June 23,
2 1987 and will expire on March 31, 2011, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
8 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
9 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
10 Nursing Practice Act.

11 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
12 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
13 licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code
14 provides that each license not renewed shall expire but may within eight years be reinstated upon
15 payment of fees and submission of proof of the applicant's qualifications as may be required by
16 the Board.

17 STATUTORY AND REGULATORY PROVISIONS

18 6. Section 482 of the Code states:

19 Each board under the provisions of this code shall develop criteria to
20 evaluate the rehabilitation of a person when:

21 (a) Considering the denial of a license by the board under Section 480; or

22 (b) Considering suspension or revocation of a license under Section 490.

23 Each board shall take into account all competent evidence of
24 rehabilitation furnished by the applicant or licensee.

25 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
26 revoke a license on the ground that the licensee has been convicted of a crime substantially
27 related to the qualifications, functions, or duties of the business or profession for which the
28 license was issued.

1 8. Section 493 of the Code states:

2 Notwithstanding any other provision of law, in a proceeding conducted
3 by a board within the department pursuant to law to deny an application for a license
4 or to suspend or revoke a license or otherwise take disciplinary action against a
5 person who holds a license, upon the ground that the applicant or the licensee has
6 been convicted of a crime substantially related to the qualifications, functions, and
7 duties of the licensee in question, the record of conviction of the crime shall be
8 conclusive evidence of the fact that the conviction occurred, but only of that fact, and
9 the board may inquire into the circumstances surrounding the commission of the
10 crime in order to fix the degree of discipline or to determine if the conviction is
11 substantially related to the qualifications, functions, and duties of the licensee in
12 question.

13 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
14 and 'registration.'

15 9. Section 2761 of the Code states:

16 The board may take disciplinary action against a certified or licensed
17 nurse or deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct, which includes, but is not limited to, the
19 following:

20

21 (f) Conviction of a felony or of any offense substantially related to the
22 qualifications, functions, and duties of a registered nurse, in which event the record of
23 the conviction shall be conclusive evidence thereof.

24

25 10. Section 2762 of the Code states:

26 In addition to other acts constituting unprofessional conduct within the
27 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
28 person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing
with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
in a manner dangerous or injurious to himself or herself, any other person, or the
public or to the extent that such use impairs his or her ability to conduct with safety to
the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription,
consumption, or self-administration of any of the substances described in
subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof.

11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

12. Title 16, California Code of Regulations, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. Title 16, California Code of Regulations, section 1445(b), states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or another sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(September 10, 2007 Conviction for DUI on April 15, 2007)**

8 15. Respondent is subject to disciplinary action under sections 490 and 2761(f) in that she
9 was convicted of a crime substantially related to the qualifications, duties and functions of a
10 nurse. The circumstances are as follows:

11 a. On or about September 10, 2007, in a criminal proceeding entitled *People of the*
12 *State of California v. Michele Knighton*, in San Diego County Superior Court, case number
13 C270753, Respondent was convicted on her plea of guilty for violating Vehicle Code section
14 23152(b), a misdemeanor with a special allegation of Vehicle Code section 23578, blood alcohol
15 content of 0.15 percent or more by weight, a misdemeanor.

16 b. As a result of the conviction, on or about September 10, 2007, Respondent was
17 sentenced to summary probation for 5 years, to pay all required fees and fines, to participate in a
18 Public Service Work Program and to attend and complete a First Conviction and MADD Impact
19 Program.

20 c. The facts that led to the conviction were that on or about April 15, 2007,
21 Respondent drove with a flat tire and failed to stop for the stop sign at the intersection of Severin
22 Drive and Earl Street in La Mesa, California while driving northbound. She also swerved several
23 times into the southbound lane while driving northbound. Respondent then approached the stop
24 sign at Severin Drive and Gregory Street and failed to slow her speed or stop at that stop sign. A
25 police officer then initiated a traffic enforcement stop and identified the smell of an alcoholic
26 beverage emanating from Respondent. She also slurred her words as she spoke. Respondent
27 admitted to the police officer that she had two glasses of wine prior to driving. The police officer
28 administered a Field Coordination Test to Respondent which she failed. Respondent was

1 subsequently arrested and her blood alcohol content was found to be greater than .15 percent, by
2 weight.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Use of Alcoholic Beverages to a Dangerous Extent)**

5 16. Respondent is subject to disciplinary action under section 2762(b) of the Code for
6 unprofessional conduct in that she used alcoholic beverages to an extent or in a manner that was
7 dangerous to herself and the public when on April 15, 2007, Respondent was driving under the
8 influence of alcohol as more fully set forth in paragraph 15 above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct-Conviction Involving Alcoholic Beverages)**

11 17. Respondent is subject to disciplinary action under section 2762(c) of the Code for
12 unprofessional conduct in that she was convicted of a criminal offense involving the consumption
13 or self-administration of alcoholic beverages as more fully set forth in paragraph 15 above.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Registered Nursing issue a decision:

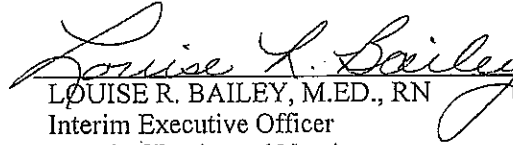
17 1. Revoking or suspending Registered Nurse License Number 410470, issued to
18 Michele Anne Knighton;

19 2. Ordering Michele Anne Knighton to pay the Board of Registered Nursing the
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: _____

7/20/10



LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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